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HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

Yokohama, Japan
18 May 1948

UNITED STATES OF AMERICA VS KOSAKU HAZAMA

Our #142

Review of the Staff Judge Advocate

1. The attached record of trial of Kosaku Hazama at Yokohama, Japan, from 3 February 1947 to 19 March 1947, by a Military Commission appointed by paragraph 40, Special Orders No. 23, Headquarters Eighth Army, United States Army, dated 28 January 1947, having been referred to the Staff Judge Advocate, this review thereof is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Kosaku Hazama
AGE: 38
RESIDENCE: Not shown
MARITAL STATUS: Married
RELATIVES: Wife, daughter, age 10
EDUCATION: Bachelor of Economics from Kyoto Imperial University
OCCUPATION: Osaka municipal employee
MILITARY CAREER: Inducted Japanese Army 1 Dec 1935, serving one year in Tokyo with 3rd Infantry Regiment; as Sgt. became a reservist; inducted again 20 Mar 1942, assigned to 22nd Regiment; saw service in Philipines; in Jan 1943 ordered to Tanagawa Branch Camp for command duty; transferred on 17 Aug 1943 to command of Oeyama Branch Camp, where he remained until 15 Sep 1945

DATE OF CONFINEMENT: 26 Nov 1945
DATE OF ARRAIGNMENT: 3 Feb 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 3 Feb 1947 to 19 Mar 1947
DATE OF SENTENCE: 19 Mar 1947
SENTENCE: CHL for fifteen (15) years
CLEMENCY RECOMMENDED BY COMMISSION: No

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2. Synopsis of Charges, Pleas, Findings, Legal Sufficiency, and Sentence.

Charges and Specifications:	Pleas	Findings	Legally Sustained
Ch: Accused at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: Between 5 January 1943 and 21 August 1943, at or near Tanagawa PW Sub-Camp, Osaka Area, Honshu, Japan, accused did unlawfully disregard and fail to discharge his duty as Commander of said Camp by failing to provide and maintain for Allied PW's adequate rations, quarters, clothing, shelter, heat, hygiene, medicines, medical care and attention and supplies, thereby	NG	NG	---

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contributing to the deaths or sickness of numerous Allied PW's.			
Sp 2: At divers times between 5 January 1943 and 21 August 1943 at or near Tanagawa PW Sub-Camp, accused, then commander of said camp, did unlawfully permit Allied PW's to perform work and services connected with the operations of war, namely, on dry docks for the use and maintenance of the Japanese Navy.	NG	NG	---
Sp 3: At divers times between 5 January 1943 and 21 August 1943, at or near Tanagawa PW Sub-Camp, accused did unlawfully order, impose or permit collective punishment on groups of Allied PW's for offenses alleged to have been committed by individual PW's by running said PW's excessive distances, by keeping them standing at attention for excessive periods of time and by slapping, beating and otherwise abusing them.	NG	G, except the words "unlawfully order, impose or".	Yes
Sp 4: On or about 15 April 1943, at or near Tanagawa PW Sub-Camp, accused, then commander of said camp, did view and willfully and unlawfully permit, cause, and condone the unlawful mistreatment administered by one Takagi of Master Technical Sergeant Jesse L. Stewart, an American PW, by beating and otherwise abusing him.	NG	G, except the words "view" and "cause".	Yes
Sp 5: In or about April 1943, at or near Tanagawa PW Sub-Camp, accused, then commander of said camp, was present at and did willfully and unlawfully permit, cause, and condone the unlawful mistreatment administered by one Takagi of one Pfc Riderbaugh, an American PW, by beating, kicking and otherwise abusing him.	NG	G, except for the words "was present at and" and "cause".	Yes
Sp 6: Between 5 January 1943 and 21 August 1943, at or near Tanagawa PW Sub-Camp, accused, then commander of said camp, did willfully and unlawfully misappropriate, misuse and convert to his own use Red Cross and other supplies intended for the use and benefit of Allied PW's.	NG	NG	---
Sp 7: At divers times between 5 January 1943 and 21 August 1943, at or near Tanagawa PW Sub-Camp, accused, then commander of said camp, did view and willfully and unlawfully permit, cause and condone the	NG	G, except for the words "view" and "cause".	No

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unlawful mistreatment of numerous Allied PW's.			
Sp 8: At divers times between 5 January 1943 and about 21 August 1943, at or near Tanagawa PW Sub-Camp, accused, then commander of said Camp, did willfully and unlawfully mistreat, torture, abuse and beat numerous Allied PW's	NG	G, except for the words, "torture, abuse and beat".	Yes
Sp 9: At divers times between 5 January 1943 and 21 August 1943, at or near Tanagawa PW Sub-Camp, accused did unlawfully disregard and fail to discharge his duties as Commander of said Camp to control and restrain the members of his command and persons under his supervision and control, by permitting them to commit the following atrocities and other offenses against Allied PW's:	NG	G	Yes
a. At divers times, between 5 January 1943 and 21 August 1943 the unlawful stealing, withholding and misuse of Red Cross supplies and food, medical and other supplies intended for the use and benefit af Allied PW's.	NG	G	Yes
b. In or about April 1943, the unlawful mistreatment and abuse by one Takagi of 1st Lt. C. W. Pflager, Jr., an American PW, by beating and otherwise abusing him, thereby contributing to his death on or about 10 August 1943.	NG	G, except the words "thereby contributing to his death on or about 10 August 1943".	Yes
c. In or about March 1943, the unlawful mistreatment and torture by one Takagi of 2nd Lt. C. H. Smith, an American PW, by beating and kicking him.	NG	G	Yes
d. In or about March 1943, the unlawful mistreatment and abuse by one Takagi of Capt. C. W. Kuhns, an American PW, by beating him.	NG	G	Yes
e. In or about June 1943, the unlawful mistreatment and torture by one Takagi of Pvt. Joe Day, an American PW, by beating him with fists, a rubber shoe and a club until he was unconscious and then confining him to the guardhouse without food for approximately four days.	NG	G, except the words "and then confining him to the guardhouse without food for approximately four days".	Yes
f. In or about April 1943, the unlawful mistreatment of four unidentified American PW's, by beating them with sticks.	NG	NG	---

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g. Between 5 January 1943 and 21 August 1943, the unlawful mistreatment and torture of four unidentified American PW's by beating them and forcing them to stand at attention for one night without clothes.	NG	NG	---
h. Between 5 January 1943 and 16 May 1943, the unlawful mistreatment and abuse by one Takagi of an unidentified American PW by beating him with a scoop shovel.	NG	NG	---
i. At divers times between 5 January 1943 and 21 August 1945, the unlawful mistreatment and torture of Allied PW's by harassing, hazing, humiliating, beating and otherwise abusing them.	NG	G	Yes
Sp 10: Between 1 May 1944 and 1 January 1945, at or near Oeyama PW Sub-Camp, Osaka Area, Honshu, Japan, accused, then commander of said Camp, assisted by one Akamatsu, one Ichibar, one Nakayama, one "Gammy Hand", one "Blue Beard" and other Japanese, did willfully and unlawfully mistreat one Cpl. Thorne, a British PW, by beating him.	NG	NG	---
Sp 11: In or about June 1945, at or near Oeyama PW Sub-Camp, accused did willfully and unlawfully mistreat and abuse Pvt. A. Favel, a Canadian PW, by striking him.	NG	NG	---
Sp 12: On or about 15 February 1944, at or near Oeyama PW Sub-Camp, accused did willfully and unlawfully mistreat and abuse Pvts. A. Paul, A. Johnston, W. H. Lynch and Cpl. S. Hiscox, Canadian PW's, by brutally beating them.	NG	G	Yes
Sp 13: Between 31 August 1944 and 31 December 1944, at or near Oeyama PW Sub-Camp, accused did willfully and unlawfully mistreat and abuse Pvt. W. H. Lynch, a Canadian PW, by beating him with a stick.	NG	NG	---
Sp 14: Between 31 August 1943 and 1 July 1944, at or near Oeyama PW Sub-Camp, accused did willfully and unlawfully mistreat and abuse Lance Cpl. C. J. Carpenter, a Canadian PW, by beating him.	NG	G	Yes
Sp 15: Between 31 August 1943 and 1 September 1945, at or near Oeyama PW Sub-Camp, accused did willfully and unlawfully mistreat and abuse Lance Cpl. W. A. Shayler, a Canadian PW, by beating him.	NG	NG	---

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Sp 16: Between 31 August 1943 and 1 September 1945, at or near Oeyama PW Sub-Camp, accused did willfully and unlawfully mistreat and abuse Pvt. G. Auld, a Canadian PW, by beating him.	NG	NG	---
Sp 17: Between 31 August 1943 and 1 September 1945, at or near Oeyama PW Sub-Camp, accused did willfully and unlawfully mistreat and abuse Pvt. M. Haddad, a Canatian PW, by beating him.	NG	NG	---
Sp 18: Between 31 August 1943 and 1 September 1945, at or near Oeyama PW Sub-Camp, accused did willfully and unlawfully mistreat and abuse Pvt. E. Draho, a Canadian PW, by kicking him.	NG	NG	---
Sp 19: Between 1 April 1944 and 31 May 1944, at or near Oeyama PW Sub-Camp, accused did willfully and unlawfully mistreat and abuse Pvt. W. H. Savage, a Canadian PW, by kicking him.	NG	NG	---
Sp 20: At divers times between the 31st of August 1943 and 1 September 1945, at or near Oeyama PW Sub-Camp accused did willfully and unlawfully pilfer, steal, withhold, misappropriate and convert to his own use Red Cross supplies intended for the use and benefit of Allied PW's.	NG	NG	---
Sp 21: Between 31 August 1943 and 1 September 1945 at or near Oeyama PW Sub-Camp, accused did unlawfully disregard and fail to discharge his duty as Commander of said Camp by failing to provide and maintain for Allied PW's adequate shelter, rations, clothing, hygiene, warmth, water, medicines and medical care and attention, thereby contributing to the deaths of named British and Canadian PW's and numerous other Allied PW's and causing the illness or disability of named Canadian PW's and numerous other Allied PW's.	NG	NG	---
Sp 22: At divers times between 31 August 1943 and 16 August 1945, at or near Oeyama PW Sub-Camp, accused did unlawfully disregard and fail to discharge his duty as Commander of said camp by permitting Allied PW's to do work directly related to the operations of war, unloading ships in or near a naval base, exposing them to unhealthy and inhuman working conditions in regions exposed to the hazards of war with no adequate	NG	NG	---

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shelter therefrom, thereby resulting in the deaths from a bombing raid of Pfcs Stephen S. Haynes and Gaston C. King, American PW's.			
Sp 23: At divers times, between 31 August 1943 and 1 September 1945, at or near Oeyama PW Sub-Camp, accused did unlawfully permit Allied PW's to work and perform arduous labor while sick, diseased and physically unfit to perform such labors, thereby contributing to the deaths of Pvt. C. J. Bross, a Canadian PW, Sapper G. Cund, Gunner L. King, British PW's, and numerous other Allied PW's, and causing the illness or disability of numerous other Allied PW's	NG	G, except for the words "the deaths of Pvt. C. J. Bross, a Canadian PW, Sapper G. Cund, Gunner L. King, British PW's, and numerous other Allied PW's and causing" and "other".	Yes
Sp 24: At divers times between about 31 August 1943 and about 1 September 1945, at or near Oeyama PW Sub-Camp, accused did willfully and unlawfully mistreat, torture, abuse and beat numerous Allied PW's.	NG	G, except for the words "torture, abuse".	Yes
Sp 25: Between 31 August 1943 and 1 September 1945, at or near Oeyama PW Sub-Camp, accused did unlawfully disregard and fail to discharge his duty as Commander of said Camp to restrain and control the members of his command and persons under his supervision and control, by permitting them to commit the following atrocities and other offenses against Allied PW's:	NG	G	Yes
a. At divers times, between 31 August 1943 and 1 September 1945, the unlawful stealing, withholding and misuse of Red Cross and other supplies intended for the use and benefit of Allied PW's.	NG	G	Yes
b. Between 31 July 1944 and 1 September 1945, the unlawful mistreatment and torture by one Akamatsu, one Ichibar and other members of the camp staff, of Flc Thomas (Mickey) O'Connor, Cpl. P.D. Floyd, Pfc Marcus Rael and Pvt. Archie York, American PW's, by beating them with sticks, fists, shoes, and by kicking them and forcing them to stand in a pool of stagnant water while they were in a known ill and weak condition.	NG	G	Yes
c. Between 31 July 1944 and 1 September 1945, the unlawful mistreatment and abuse by one Akamatsu of Cpl. W.A. Shaeffer, an American PW, by beating him.	NG	G	Yes

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d. In or about June 1945, the unlawful mistreatment and torture by one Akamatsu of one Pvt. Goff, an American PW, and three unidentified Canadian PW's, by making them hold buckets of water over their heads while standing in the blazing sun for about two hours.	NG	G	Yes
e. On or about 1 April 1945, the unlawful mistreatment of one Pvt. Clement, an American PW, by beating him.	NG	G	Yes
f. Between 31 August 1943 and 1 September 1945, the unlawful mistreatment and abuse by one Akamatsu of Cpl. E.A. McFarland, a Canadian PW, by beating him.	NG	G	Yes
g. Between 1 May 1944 and 1 September 1945, the unlawful mistreatment and abuse by one Ichibar, one Akamatsu, one Okada, aka "Muscles", one Cpl. Tarradadi and one Tanaka of Pvt. M.C. Galbraith, a Canadian PW, by brutally beating him.	NG	G	Yes
h. Between 31 August 1943 and 1 September 1945, the unlawful mistreatment and torture by one Akamatsu of Pvt. L.G. Johnston, a Canadian PW, by beating and kicking him.	NG	G	Yes
i. In or about April 1945, the unlawful mistreatment and abuse by one Akamatsu of Cpl. R.P. Oomen, a Canadian PW, by beating and kicking him, thereby causing him permanent injury.	NG	G	Yes
j. Between 31 December 1944 and 1 September 1945, the unlawful mistreatment and abuse by one Akamatsu of Pvt. B. Lewick, a Canadian PW, by beating him.	NG	G	Yes
k. In or about January 1945, the unlawful mistreatment and abuse by one Ichibar of Pvt. J.R. Stinson, an American PW, by beating him.	NG	G	Yes
l. Between 1 May 1944 and 1 September 1945, the unlawful mistreatment and abuse by one Ichibar of Cpl. E.A. McFarland, a Canadian PW, by beating him.	NG	G	Yes
m. Between 1 May 1944 and 1 September 1945, the unlawful mistreatment and torture by one Ichibar and two others of Pvt. B. Dyck, a Canadian PW, by forcing him to kneel	NG	G	Yes in part

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with sticks under his legs and insteps, by forcing him to hold a pail of water over his head and by beating him.			
n. Between 31 August 1943 and 1 January 1945, the unlawful mistreatment and torture by one Nakayama of Cpl. L.A. McFarland, a Canadian PW, by beating him with fists when he was a patient in the hospital.	NG	G	Yes
o. Between 31 August 1943 and 1 September 1945, the unlawful mistreatment and abuse by one Sheacowa of Sgt. H.G. Donnelly, a Canadian PW, by beating him.	NG	G	Yes
p. Between 31 August 1943 and 1 January 1945, the unlawful mistreatment and abuse by one Nakayama of Sgt. H.G. Donnelly, a Canadian PW, by beating him.	NG	G	Yes
q. Between 31 August 1943 and 1 January 1945, the unlawful mistreatment and abuse by one Nakayama of Pvt. A.M. Lousier, a British PW, by beating him.	NG	G	Yes
r. Between 31 December 1943 and 1 March 1944, the unlawful mistreatment and abuse by one Nakayama of Cpl. "Tug" Wilson, a British PW, by beating him.	NG	G	Yes
s. Between 31 August 1943 and 1 January 1945, the unlawful mistreatment and abuse by one Nakayama, one Itoysan and one Morishima of Sgt. K.E. Porter, a Canadian PW, by beating him.	NG	G	Yes
t. In or about February 1945, the unlawful mistreatment and abuse by one Nakayama of Cpl. W.A. Shayler, a Canadian PW, by beating him.	NG	G	Yes
u. In or about June 1945, the unlawful mistreatment and torture by one Ito San and one "Gammy Hand" of Pvts. G. Merritt, B. McKinnon and B. Lewicki, Canadian PW's, by beating them and forcing them to kneel with sticks under their knees and insteps and by forcing them to hold pails of water over their heads.	NG	G	Yes
v. During the year 1944, the unlawful mistreatment and torture by one "Gammy Hand" and one Nakayama of Gunner J. Smith, British PW, by beating him with rifles and kicking him until he was unconscious.	NG	G	Yes

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w. In or about July 1945, the unlawful mistreatment and abuse by one "Gammy Hand" of Pvt. J. Riddoch, a Canadian PW, by beating him.	NG	G	Yes
x. In or about July 1945, the unlawful mistreatment and abuse by one "Gammy Hand" of Pvt. J. Podosky, a Canadian PW, by beating him.	NG	G	Yes
y. In or about December 1944, the unlawful mistreatment and abuse by one Tanaka of Pvt. W.H. Lynch, a Canadian PW, by beating him.	NG	G	Yes
z. Between 1 February 1944 and 31 July 1944, the unlawful mistreatment and abuse by one Tanakasan of Cpl. J. G. Willis, a Canadian PW, by beating him.	NG	G	Yes
aa. In or about January 1945, the unlawful mistreatment and abuse by one Tanaka of Pvt. J.E. Delorme, a Canadian PW, by beating him with a stick.	NG	G	Yes
bb. Between 31 August 1943 and 1 January 1945, the unlawful mistreatment and abuse by one Okada, aka "Muscles" of Pvt. G. Auld, a Canadian PW, by beating him with a rifle and fists.	NG	NG	---
cc. Between 31 August 1943 and 1 January 1945, the unlawful mistreatment and abuse by one Okada of W.A. Shayler, a Canadian PW, by beating him.	NG	G	Yes
dd. Between 31 August 1943 and 1 January 1945, the unlawful mistreatment and abuse by one Okada of Cpl. C.J. Carpenter, a Canadian PW, by beating him.	NG	G	Yes
ee. Between 31 August 1943 and 1 January 1945, the unlawful mistreatment and abuse by one Okada of Pvt. M. Haddad, a Canadian PW, by beating him with a rifle and fists.	NG	NG	---
ff. In or about November 1944, the unlawful mistreatment and abuse by one Okada of one Steele, a British PW, by beating him.	NG	G	No
gg. On or about 16 February 1944 the unlawful mistreatment and abuse by one Itosan of Lance Cpl. T.G. Weir, a Canadian PW, by beating him.	NG	G	Yes
hh. In or about the year 1944, the unlawful mistreatment and abuse by one Itoy of Pvt. K.J. Inkster, a Canadian PW, by beating him.	NG	G	Yes

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ii. Between 31 August 1943 and 1 September 1945, the unlawful mistreatment and abuse by one Itosan of Pvt. A.M. Lousier, a Canadian PW, by beating him with a sword.	NG	G	Yes
jj. On or about 14 August 1945, the unlawful mistreatment and torture by one Itoysan and four others of Pvt. L.A. Brazeau, a Canadian PW, by beating and kicking him.	NG	G	Yes
kk. Between 31 August 1943 and 1 September 1945 the unlawful mistreatment and abuse by one Kaneko, aka "The Squirrel", of Company Sgt. Maj. F.G. Adams, a Canadian PW, by beating him with a wooden sword.	NG	G	Yes
ll. In or about January 1945, the unlawful mistreatment and abuse by one Konysan of Pvt. F.A. English, a Canadian PW, by beating him with a wooden sword and by kicking him.	NG	G	No
mm. In or about March 1945, the unlawful mistreatment and abuse by one Konysan of Pvt. F.A. English, a Canadian PW, by beating him.	NG	G	No
nn. In or about June 1945, the unlawful mistreatment and abuse by one Konysan of Pvt. William Fostey, a Canadian PW, by striking him under the eye with the point of a wooden sword, thereby causing injuries which required two stitches.	NG	G	Yes
oo. On or about 2 February 1944, the unlawful mistreatment and torture by one Sheacowa and a Japanese known as "Old John" of Pvt. C.J. Bross, a Canadian PW, by beating him and forcing him to stand outside in cold weather while stripped to the waist.	NG	G	No
pp. In or about January 1945, the unlawful mistreatment and abuse by one Kitamura of Pvt. G. Clarke, a Canadian PW, by beating him with a bamboo sword.	NG	G	Yes
qq. Between 31 August 1943 and 1 September 1945, the unlawful mistreatment and abuse by one Kitamura of Cpl. S. Hiscox, a Canadian PW, by kicking him and by beating him with a stick.	NG	G	Yes
rr. Between 31 May 1944 and 1 January 1945, the unlawful mistreatment and abuse by one Tarada of Pvt. L.J. Bageot, a Canadian PW, by kicking him and by beating him with a stick.	NG	G	Yes

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ss. In or about January 1945, the unlawful mistreatment and abuse by one Sheacowa and one "Old John" of Pvt. R.A. Brass, a Canadian PW, by beating him.	NG	G	Yes
tt. In or about the month of March 1945, the unlawful mistreatment and abuse by one Sheacowa of Cpl. C.J. Carpenter, a Canadian PW, by beating him.	NG	G	Yes
uu. In or about December 1944, the unlawful mistreatment and torture by several unidentified guards of Cpl. William O. McCarthy, an American PW, and seven other unidentified Allied PW's, by beating them, by forcing them to stand at attention in sleet and snow for a long period of time and by forcing them to run about two and one-half miles.	NG	G	Yes
vv. Between 31 August 1943 and 1 September 1945, the unlawful mistreatment and abuse by two unidentified Japanese civilians of Cpl. E.A. McFarland, a Canadian PW, by beating him with fists.	NG	NG	---
ww. In or about November 1944, the unlawful mistreatment by one Tarada, a civilian guard, of Pvt. George Merritt, a Canadian PW, by beating him with a shovel.	NG	G	Yes
xx. Between 31 August 1943 and 1 September 1945, the unlawful mistreatment and torture of Cpl. S. Hiscox, a Canadian PW, by forcing him to hold Red Cross parcels above his head and by forcing another PW to beat him.	NG	NG	---
yy. Between 30 April 1944 and 30 September 1944, the unlawful mistreatment and abuse by one "Blackbeard" of Cpl. R.J. Turner, a Canadian PW, by beating him with a rifle.	NG	G	Yes
zz. Between 1 February 1944 and 1 July 1944, the unlawful mistreatment and torture of Cpl. J.G. Willis, a Canadian PW, by beating him until he became unconscious.	NG	G	Yes
aaa. On or about 30 December 1944, the unlawful mistreatment and abuse of Pfc E.A. Latvala, an American PW, by beating him and by requiring him to work on a labor detail while he was weak and undernourished and suffering from beriberi heart, thereby contributing to the death of the said PW.	NG	G	Yes

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bbb. Between 31 August 1943 and 1 September 1945, the unlawful mistreatment and torture of Pvt. J.J. Tandy, a Canadian PW, by beating him.	NG	NG	---
ccc. Between 30 April 1943 and 1 September 1945, the unlawful mistreatment and torture of Pfc J.C. Grant, an American PW, by beating him, by forcing him to submerge in a tank of cold water, and by compelling him to kneel in a stationary position while holding a log over his head.	NG	G	Yes
ddd. In or about May 1945, the unlawful mistreatment and abuse by one "Number Two" of Pvt. George Merritt, a Canadian PW, by beating him with a shovel.	NG	G	Yes
eee. In or about July 1945, the unlawful mistreatment and torture of an American PW, known as "Woody" by forcing him to kneel with sticks under his knees and insteps and to hold a pail of water over his head.	NG	G	Yes
fff. In or about July 1945, the unlawful mistreatment and torture of S/Sgt. Bill Sniscoe, an American PW, by hanging him up by the thumbs overnight and by forcing other PW's to beat him.	NG	NG	---
ggg. On or about 1 August 1945, the unlawful mistreatment of Philip B. Toland, an American PW, by beating him.	NG	G	Yes
hhh. Between 1 October 1943 and 31 March 1944, the unlawful mistreatment by "The Squirrel" of Pvt. R.J. Turner, a Canadian PW, by beating him.	NG	G	Yes
iii. Between 1 July 1945 and 1 September 1945, the unlawful mistreatment and abuse by one Narikawa of Pvt. G. Clarke, a Canadian PW, by beating him. (As amended, R 537.)	NG	G	Yes
jjj. At divers times between 31 August 1943 and 1 September 1945, the unlawful mistreatment of numerous Allied PW's by harassing, hazing, humiliating, beating and otherwise abusing them.	NG	G	Yes

MAXIMUM LEGAL PUNISHMENT: Death.

SENTENCE IMPOSED: Confinement at hard labor for fifteen (15) years.

(p 12, HAZAMA, Case #143)

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B. Summary of the Evidence:

Specifications 1 to 9 inclusive cover a period of time, 5 January 1943 to 21 August 1943, when accused was the commanding officer of the Tanagawa Prisoner of War Sub-Camp, Osaka Area, Honshu, Japan. The remaining specifications cover a period of time, 1 May 1944 to 1 January 1945, when accused was commanding officer of the Oeyama Prisoner of War Sub-Camp, Osaka Area, Honshu, Japan.

a. For the Prosecution:

TANAGAWA CAMP

As to Specifications 1 and 2: (Not Guilty)

As to Specification 3: During the morning and evening musters, if a guard observed an infraction of the rules by one of the prisoners, the entire group would be forced to remain in the position of attention for from two to two and one-half hours, and sometimes they were deprived of the next meal. In March 1943, on several rest days, the prisoners were forced to run four or five miles in the rain and cold without their shirts. Thirty officers were forced to stand outside for one and one-half hours in an endeavor to learn which one of them had misplaced a Japanese book. On one occasion four prisoners were discovered gambling. For this, several prisoners were beaten and confined to the guard house for twenty-four hours (R. 24, 46-47, 107, 110, 132, 146, 147; Ex. 13, 14, 17, 21).

As to Specification 4: The doctor had ordered prisoner Stewart to turn into the convalescent barracks because of the fact that he was spitting blood. As he left the doctor's office he had to pass accused's office. A guard by the name of Takagi saw him and accused him of "goldbricking" and forced him to stand at attention and beat him for fifteen minutes and ordered him back to his job. Accused watched this beating through his window. Upon return to work the boss saw Stewart spitting blood and personally took him back to accused's office, stayed there for five minutes, and then placed him in the convalescent barracks (R. 24, 31, 52-53).

As to Specification 5: Prisoner Ridenbaugh "passed out" in formation when the group was waiting to go to work one morning in April 1943. Takagi saw him fall, ran over and kicked him until he got back on his feet and then beat him with his fists for about fifteen minutes about the head and face. He then sent him to work. Accused watched this beating from his office window which was but twenty yards from the formation (R. 24, 25, 31).

As to Specification 6: (Not Guilty)

As to Specification 7: Within the presence and observation of accused there were many abuses of the prisoners. One prisoner was beaten for forty-five minutes in an attempt to force a confession from him. Prisoners were beaten and humiliated at every opportunity for the slightest infraction of the rules. They were often forced to stand at attention during the beatings. Weapons used were sticks, belts, clubs, bayonets, swords and baseball bats (R. 23, Ex. 10, 18, 20, 21, 24).

As to Specification 8: Straw hats were issued to the prisoners. Accused personally slapped twenty prisoners for failure to wear them as ordered. After accused was succeeded as commanding officer, a rest day was given the prisoners weekly. During his period of command the prisoners were given but one rest day in every fifteen (R. 110, 142).

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As te Specification 9a: The Japanese personnel at this camp took a great portion of the Red Cross food that was intended for the prisoners. They were seen eating American chocolate bars and smoking American cigarettes. Empty cans which had contained American foodwere seen in the trash barrel (R. 30, 139; Ex. 8, 21).

As to Specification 9b: All of the prisoners were ordered to walk about three miles. Lieutenant Pflager had been very ill and became exhausted. The interpreter, Takagi, beat him with his fists until he fell to the ground. Thereafter he beat him for about thirty minutes (R. 141; Ex. 13).

As to Specifications 9c and 9d: Lieutenants Smith and Kuhns had been hospitalized and had borrowed some money from a Japanese. Upon being paid they inquired if it was possible to send the money back to him. Takagi accused them of black marketing and beat them for about twenty minutes (R. 25, 31, 114, 521; Ex. 10, 16, 18, 21, 22).

As to Specification 9e: Takagi beat prisoner Day until he became unconscious because he accused him of not working fast enough (R. 139; Ex. 6).

As to Specifications 9f, g, h: (Not Guilty)

As to Specification 9i: Prisoners were forced to stand at attention for long periods of time. A medical officer was beaten because he interceded for sick prisoners who were sent to work. One prisoner was beaten with his mess kit and forced to hold a rock over his head for a period of about two hours. Whenever, because of malnutrition, the prisoners could not do the work as specified by the quota, the prisoner work captains were beaten with shovels, clubs, and anything else that the guards could find. Ichiba told the officers that they were lower than dogs and that they were not officers or they would not have surrendered. Beatings were a daily occurrence. Because a book was lost and found in the officers' quarters, all of the officers were forced to stand at attention for an hour. During this time the enlisted men passed them returning from work and observed their humiliation. Accused saw this and laughed about the matter (R. 107, 109, 120, 142; Ex. 10, 14, 15, 23, 24).

OEYAMA CAMP

As to Specification 12: Prisoners Paul, Johnston, Lynch and Hiscox were beaten by accused over the face and head with a ruler and then sent to the guard house where they received a further beating by the guard and were detained overnight (Ex. 34, 35).

As to Specification 14: Prisoner Carpenter was recovering from beri-beri and chronic diarrhea and did odd jobs around the camp. He was cleaning up around the outside of accused's office, which was normally out of bounds, when accused asked him, through the interpreter, what he was doing there. The explanation evidently was not satisfactory, because accused struck him three times with his open hand and knocked him down (Ex. 39, 40, 41).

As to Specifications 15, 16, 17, 18, 19, 20, 21, and 22: (Not Guilty)

As to Specification 23: It was common practice that, after the American medical officer held sick call and decided which prisoners were too ill to work, the prisoners as designated had to pass a Japanese medical orderly. In many cases the orderly sent sick prisoners to work and this greatly impaired their health (R. 301; Ex. 25-27, 29, 40, 42, 53, 54, 56, 57, 68, 90, 140).

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As to Specification 24: During accused's command at Oeyama Camp beatings of prisoners of war were a daily occurrence. The victims were often rendered semi-conscious or completely unconscious. Many times the prisoner being beaten was suffering from illness and was in a weakened condition (Ex. 32, 40, 43, 90, 107, 156).

As to Specification 25a: Red Cross supplies that arrived at the camp were not entirely distributed to the prisoners. American cigarettes, milk, chocolate bars, raisins, jam, cheese, tins of ham and eggs were seen by the prisoners in the Japanese staff offices. Empty Red Cross food cans were also observed in the offices (R. 288, 294-295; Ex. 25-29, 31, 51, 52, 54-62, 66, 109, 112).

As to Specification 25b: Prisoner Floyd broke into a storeroom and ate some food and took some cigarettes to prisoners O'Connor, Rael and York. Rael was beaten by the guards and prisoners Harvey and Tugby for about fifteen minutes, during which time he was knocked down several times and was bleeding from the ear. They then severely beat these four prisoners in the face, head, and stomach with fists, sticks, and shoes. O'Connor was knocked into a pond of water by prisoners Tugby and Harvey. The beatings lasted about an hour (R. 291; Ex. 36, 43, 70, 72-75, 96).

As to Specification 25c: Thirty prisoners attempted to take some beans from a warehouse. Prisoner Shaeffer took the blame in order to protect the others. He was forced to squat with a bamboo pole behind his knees and to hold a log over his head until he became unconscious. After this he was revived and was forced to squat for another two hours without holding the log (Ex. 78, 80-82).

As to Specification 25d: Prisoner Goff and three Canadian prisoners were forced to hold buckets of water over their heads for a period of two to three hours in the sun (Ex. 79).

As to Specification 25e: Prisoner Clement was beaten by the Japanese staff in the camp for stealing food. He was then stripped of all clothes but his underwear and placed in the guard house (Ex. 79, 80).

As to Specification 25f: Akamatsu beat prisoner McFarland with his fists (Ex. 43).

As to Specification 25g: Prisoner Galbraith was discovered making a bracelet out of Japanese coins by Ichibar. He beat Galbraith with his fists and a shoe for about five minutes. This resulted in cutting him considerably and reduced him to a condition which required medical attention. He was also beaten by Akamatsu, Okada, Tarradadi and Tanaka, all personnel at the camp (R. 523; Ex. 114, 123).

As to Specification 25h: Akamatsu beat prisoner Johnson for about ten minutes. He was struck in the face with fists, knocked down, kicked, "hauled up" again and knocked to the ground (Ex. 118).

As to Specification 25i: In April 1945 prisoner Domen was discovered by Akamatsu making bracelets out of an old aluminum water bottle. Akamatsu slapped him about six times with his open hand and knocked him to the ground. While lying on the ground he kicked him in the ribs. This kicking raised a lump which Domen still had at the time of making his affidavit, 21 February 1946. He states therein that because of the lump he cannot lie on his left side with comfort (R. 523; Ex. 125).

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As to Specification 25j: Akamatsu slapped and beat prisoner Lewicki on three occasions for stealing food from a storeroom and for trading some of the food for cigarettes (Ex. 40, 113).

As to Specification 25k: When prisoner Stinson was a hospital patient he attempted to get some wood from under a snow drift to build a fire in the hospital stove. For this act Ichibar beat him in the face with his fists and forced him to stand in the snow in his tennis shoes for about four hours (Ex. 134).

As to Specification 25-l: Ichibar beat prisoner McFarland with his fists (Ex. 43).

As to Specification 25m: Prisoner Dyck was beaten by three Japanese with their fists until he was almost unconscious. He was then revived by having cold water poured over him. He returned to his hut after this abuse and had to go to bed (Ex. 114).

As to Specification 25n: Nakayama beat prisoner McFarland with his fists when he was a patient in the hospital suffering from chronic diarrhea. He was forced to stand at attention during the beating (Ex. 43).

As to Specification 25o: On one occasion prisoner Donnelly, as leader of a work group, permitted his men to sit down for a rest. When Shiokawa noticed this, he forced Donnelly to stand at attention and struck him four times in the face with his closed fist. This blackened his eye and raised a lump on his jaw bone (Ex. 56).

As to Specification 25p: Prisoner Donnelly reported on sick call because of diarrhea. Nakayama asked him how many bowel movements he had had during the night. When Donnelly reported that he had had eighteen Nakayama called him a liar and struck him three times with his closed fist in the face. He then forced him to stand at attention for two hours in front of the office (Ex. 56).

As to Specification 25q: Prisoner Lousier recites in his affidavit that he was beaten by a guard named Itoyasan when he was sick with diarrhea. The weapon used was a sword and he was beaten on the head and body for about five minutes. He received a similar beating from Nakayama (Ex. 87).

As to Specification 25r: Nakayama beat prisoner Wilson for fifteen minutes with his fists and then took him into the office where he beat him again R. 523-524; Ex. 126).

As to Specification 25s: Prisoner Porter was in charge of other prisoners who were doing work in a mine. The Japanese boss told him his section was not getting its work out in sufficient quantity. An argument followed and Itoysan, Morishima and Nagashimi beat him with wooden swords and rifle butts for about forty-five minutes. He was beaten until he was in a semi-conscious state and required hospitalization (Ex. 92).

As to Specification 25t: Nakayama, while inspecting the huts one evening, discovered prisoner Shayler with a broom in his hands. He knocked the broom from Shayler's hands and questioned him as to why he had it. Shayler explained that he was cleaning the hut. Nakayama beat him over the head with a rubber shoe approximately twelve times. Shayler had to be helped to his mat as a result (Ex. 36).

As to Specification 25u: One night while working at the factory prisoners Merritt, McKinnon and Lewicki were discovered eating vegetables which they had stolen. One "Gammy Hand" and one Ito San

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beat them in the face with their fists for about two hours. The next morning they were forced to kneel on bamboo and hold buckets of water over their heads for about two hours (Ex. 121, 123).

As to Specification 25v: On one occasion "Gammy Hand" pulled prisoner Smith from the ranks and beat him on the head with the butt of his rifle until he fell to the ground. While lying on the ground this guard kicked him until he was rendered unconscious (Ex. 51, 77, 108, 124, 129, 136).

As to Specification 25w: The Japanese foreman at the factory arranged for the prisoners to have tea prior to starting the night shift. "Gammy Hand" saw them drinking the tea and, because prisoner Riddock was nearest to him, he knocked the tea from his hand and hit him in the face with his fist about six times. After a few minutes he again hit Riddock, knocked him to the ground and kicked him in the stomach (Ex. 138).

As to Specification 25x: "Gammy Hand" gave prisoner Podosky about a dozen hard slaps across his face with his open hand. Podosky had been discovered stealing beans the day before and it is thought this slapping was a reminder not to steal them that day (Ex. 138).

As to Specification 25y: Tanaka discovered prisoner Lynch eating a turnip behind a workshop. He hit Lynch on the head and back with a wooden sword. He then knocked him to the ground and kicked him (Ex. 109).

As to Specification 25z: Prisoner Willis forgot to report a change in his sleeping quarters from one hut to another. Tanakasan forced Willis to stand at attention and struck him three times with his fist. This rendered Willis unconscious (Ex. 64).

As to Specification 25aa: In January 1945 prisoner Delorme was on a detail carrying wood on his back. As they went down the road he became very hungry and pulled a few onions growing by the side of the road and ate them as he went along. Tanaka saw him and ordered him to remove the wood from his back and to stand at attention. He then beat him about the head, face and body for about fifteen minutes. This cut his head in several places, drew blood and left scars which he had at the time of making his affidavit, 31 July 1946.

As to Specification 25bb: (Not Guilty)

As to Specification 25cc: The worst guard at the camp was one named "Muscles". He beat prisoner Shayler. "Muscles" habitually beat his victims with his fists, rifle butts or any other weapon that might be at hand. He always left his victims unconscious or in need of medical attention (Ex. 40).

As to Specification 25dd: "Muscles" accused prisoner Carpenter of cutting his blankets, which Carpenter denied. He hit Carpenter four or five times in the face with his fist and forced him to stand at attention outside for two hours on a very cold day (Ex. 39, 40).

As to Specification 25ee: (Not Guilty)

As to Specification 25ff: There appears to be no evidence to support this specification.

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As to Specification 25gg: Itosan beat prisoner Weir and about ten others in the face with his fist for bringing coal into the camp in their raincoat pockets. He knocked them down several times (Ex, 139).

As to Specification 25hh: Prisoner Inkster, while working in a camp garden, picked up a sweet potato and hid it in his hat. Itoy suspected Inkster but did not find the potato. He, nevertheless, struck him in the face about fifteen times (Ex. 51).

As to Specification 25ii: Ito beat prisoner Lousier with a sword for about five minutes. He was required to receive medical attention when the beating was finished (Ex. 87).

As to Specification 25jj: Prisoner Brazeau was beaten by Itoysan and four other Japanese. They struck him with sticks, knocked him to the ground, kicked him and caused him to become semi-conscious. They then revived him with water and repeated the abuse. The incident lasted about thirty minutes (Ex. 45, 65).

As to Specification 25kk: Kaneko, the "Squirrel", beat prisoner Adams with a wooden sword for a "considerable" length of time (Ex. 40).

As to Specification 25-ll: Apparently there was no evidence offered in support of this specification.

As to Specification 25mm: Apparently there was no evidence offered in support of this specification.

As to Specification 25nn: Konysan struck prisoner Fostey under the left eye with a wooden sword and cut his face to the extent that two stitches had to be taken. His face became so swollen from this that he was excused from work for twenty-four hours (Ex. 113).

As to Specification 25oo: Prisoner Bross was accused of stealing some rice from a workman at the factory. The prisoners (about fifty of them), were lined up to witness Bross' beating. A guard called "Old John" and the factory foreman beat and kicked him for about ten minutes and then forced him to stand at attention outside of a shed, despite the fact that it was a very cold day (Ex. 66).

As to Specification 25pp: Kitamura beat prisoner Clark over the head with a bamboo sword three times because he was unable to carry 120-pound sacks of rice. Each blow knocked him to the ground (Ex. 108).

As to Specification 25qq: Prisoner Hiscox was accused of stealing a small amount of salt. Kitamura beat him with a stick about the head and body for about ten minutes (Ex. 109).

As to Specification 25rr: Tarada beat prisoner Pageot over the head about a dozen times with a shoe. He then kicked him about the stomach and shins. After the beating, which lasted about twenty minutes, he threw the boot at his testicles (Ex. 59, 126).

As to Specification 25ss: Private Brass was accused of stealing a workman's lunch at the factory. The prisoners were ordered in formation and Sheacowa and "Old John" beat Brass with bamboo poles and fists and knocked him to the ground. He became unconscious and when he regained consciousness they beat him again (Ex. 35, 58, 59, 87, 101-103, 112, 118, 122, 128, 135).

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As to Specification 25tt: Prisoner Carpenter was discovered by Sheacowa taking some tar from a barrel for the purpose of chewing it. He hit Carpenter eight or ten times in the face before he knocked him down. When he arose he hit him about five more blows (Ex. 39).

As to Specification 25uu: Prisoner McCarthy and seven other prisoners were beaten by civilian guards for having lumps of coal in their pockets to use in their own burner. They took turns beating them in the face and then made them run about two and one-half miles. McCarthy became exhausted and fainted (Ex. 120).

As to Specification 25vv: (Not Guilty)

As to Specification 25ww: Tarada beat prisoner Merritt with a shovel because he thought that he was not shovelling coal fast enough. He struck him six or seven times in that manner. He received no other injury but was badly bruised about the chest (Ex. 123).

As to Specification 25xx: (Not Guilty)

As to Specification 25yy: A Japanese sentry known as "Blackbeard" beat prisoner Turner with a rifle butt on the nose. He later had difficulty breathing through it and learned that it had been broken (Ex. 136).

As to Specification 25zz: A member of the Japanese staff discovered prisoner Willis in the Japanese quarters buying cigarettes from one of the other staff members. He forced Willis to stand at attention and knocked him to the ground three times and on the last occasion he became unconscious. He had a headache for some days after the incident (Ex. 64).

As to Specification 25aaa: Prisoner Latvala was sick and had a bad heart. Despite his weakened condition he was forced to carry wood down the mountain with a work detail. He was unable to carry a full load of wood and, because of this, Itoyasan and others beat him for about fifteen minutes to such an extent that he could not rise from the ground. He had to be carried back to camp on an improvised litter and died that night (Ex. 45-49).

As to Specification 25bbb: (Not Guilty)

As to Specification 25ccc: In the spring of 1945 prisoner Grant was caught stealing Red Cross food and cigarettes from the Japanese storeroom. The guards forced him to take off his clothes and enter a tank of water. The water came up to his waist and was extremely cold. When permitted to come out of the water after three hours, one of the guards beat him over the head with his boot. He was then compelled to remain in a squatting position with a pole behind his knees and at the same time to hold a pole behind the back of his neck and shoulders with a weight on each end of it. This lasted from three to four hours. When he fell over in an exhausted condition, he was placed in the guard house with but one blanket where he remained three days on half rations (R. 291, 512-516; Ex. 57, 63, 64, 94, 100, 105, 108, 117, 119, 122, 129).

As to Specification 25ddd: A foreman at the factory told prisoner Merritt and others that if they worked but ten minutes more they could quit. After ten minutes they slowed down and at that time a guard called "Number Two" discovered them working in this manner. When they informed him what the foreman had told them he beat Merritt on the sides eight or ten times. One blow hit his

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elbow and he was required to receive medical attention for it and could not work for three weeks (Ex. 123).

As to Specification 25eee: A prisoner known as "Woody" was forced to kneel in the following manner: One bamboo pole was placed under his knees; a second was under his foot, thereby keeping the lower portion of his legs off of the ground; a third was placed behind his knees to prevent him from sitting on them. At the same time he was forced to hold a bucket above his head with his arms extended. This punishment lasted at least an hour and one-half and several times during this period a guard came to inspect in order to force him to keep his arms thus extended (Ex. 129).

As to Specification 25fff: (Not Guilty)

As to Specification 25ggg: In a morning formation prisoner Toland was not marking time with the others. A guard called him forward and hit him in the face about ten times with his hand. The last blow knocked him to the ground. He was in such a dazed condition that he had to be led back into formation (Ex. 137).

As to Specification 25hhh: Prisoner Turner was quartered in the rest hut. One night he arose to go to the latrine and lit a cigarette. A guard known as the "Squirrel" saw him smoking and struck him three times with the side of his hand and knocked him down each time (Ex. 136).

As to Specification 25iii: Prisoner Clark went for a drink of water at a time when the prisoners were being searched for some stolen beans. Narikawa hit him in the face several times, which loosened his teeth and cut his mouth considerably (Ex. 108).

As to Specification 25jjj: At work the prisoners were "pushed" by the work bosses and worked hard--harder than was possible for some. Insufficient work was punished on the spot by blows on the face with whatever was handy. Some prisoners were placed on a "black list" and were forced to wear green numbers. This made them liable for punishment at anytime and for any reason.

Misdemeanors were punished by kicking, beating on the face, forcing the victims to stand at attention or to kneel in awkward positions, often for hours, striking with fists, rifle butts, belts, clubs, sticks, or anything that was handy.

Intervention in an endeavor to lessen punishment always meant that the punishment was increased.

Almost everyone at the camp was slapped or beaten at one time or other. Four prisoner-sergeants were appointed by accused to control the prisoners of war and to mete out punishments for infractions of the rules. They exceeded their rights and set up "kangaroo courts" and beat and abused fellow-prisoners (R. 489, 492-496, 497-509; Ex. 25-27, 30, 32, 33, 35, 36, 42, 43, 45, 50, 51, 53, 54, 56, 57-59, 61, 63, 64, 68-70, 76-78, 80, 84, 87, 90-95, 97, 106-110, 113, 114, 116, 118, 119, 122, 126, 127, 129, 131, 133-136, 144, 145).

b. For the Defense:

The gist of the pertinent testimony by witnesses for the defense is as follows:

TANAGAWA CAMP

Accused's control of subordinates: Accused had no

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control over the civilian employees at the company. He likewise had no authority to punish civilians employed by the army (R. 353-354). Accused's control over his subordinates was limited. The orders concerning these subordinates came from the Main Camp. They had a right, under the peculiar situation, to refuse to obey his orders. In this event his only recourse was to report such insubordination to the commanding officer at the Main Camp (R. 655).

Concerning sending sick prisoners of war to work: Accused had no knowledge as to which prisoners were sick and made no decisions as to which of them would be excused from going to work or which prisoners would be ordered to go to work by the medical officer (R. 383). Sick prisoners, after physical examination, were not required to go to work (R. 390). When the Japanese medical officer, Dr. Nosu, came and inspected at the camp he made such decisions. At other times the prisoner of war doctor so decided (R. 435). Accused at all times ordered his subordinates to "handle sick prisoners of war carefully and to work hard for their speedy recovery" (R. 435-436). The medical officer's decision was final if he excused a prisoner of war from work, and no one could overrule such decisions (R. 443). The prisoner of war medical officer was the one who decided whether the prisoner of war should go to the hospital or do light duty. Sergeant Hayashi, medical sergeant, at all times honored the prisoner of war medical officer's request to permit certain prisoners of war to rest or to give weak prisoners light work.

Concerning distribution of Red Cross supplies: The camp commandant of the Osaka area, which included Tanagawa and Oeyama camps, stated that during the first year the prisoners of war personally received the distribution of Red Cross supplies. However, they ate too much and developed diarrhea. The following year, to avoid diarrhea, he issued an order to use Red Cross supplies in the kitchen as a supplement to the regular food supply (R. 357).

The Red Cross food supplies were used in addition to the amount allotted by regulations to the prisoners of war (R. 398). The Japanese personnel were not permitted to have Red Cross supplies of any type (R. 411). At Oeyama Branch Camp, about November 1944, Red Cross supplies were received. Thereafter, some portion of these supplies was distributed daily (R. 417). As soon as Red Cross medical supplies were received, they were turned over to the prisoner of war doctor (R. 438). There was a notice placed on the prisoner of war bulletin board that Red Cross food had been transported by Japanese ships; however, nothing was thereon indicated that such food belonged to the Japanese Government (R.545). Under the order of Colonel Murata, Main Camp Commandant, the Red Cross food was turned over to the kitchen for preparation and then served to the prisoners of war (R. 620). At Oeyama, one pair only of Red Cross shoes was furnished for each two prisoners of war, and was so issued. Some Red Cross food and a small amount of clothing was sent to the Tanagawa Camp (R. 823). On one occasion at Oeyama Camp tobacco, chocolates and chewing gum was stolen from the Red Cross supplies (R. 468).

General Defense Testimony: When the first draft of prisoners of war arrived at the Oeyama Camp they were tired and weak and accused ordered one month's time in order that they might recuperate before reporting to work (R. 421). It was believed by the Japanese people at the mine and around the prisoner of war camp that accused treated the prisoners too well and they criticized him for such treatment (R. 422). Accused ordered his subordinates never to strike any prisoners of war (R. 437). Accused requested the company to supply more medicines for the prisoners of war and likewise requested that it supply food and fuel for heating purposes (R. 544). The company wanted the prisoners of war to work on rainy days, but accused refused such requests (R. 456, 460).

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Tadashi Odashima, Assistant Chief of the Prisoner of War Information Bureau, stated that his inspections did not disclose any failure on the part of accused to discharge his duty as commander of the prisoner of war camp (R. 467). Accused ordered all of his subordinates and likewise the company employees working inside the camp that prisoners of war would not be beaten or manhandled. They were to be treated in a humane fashion. He required company officials to gather all of the employees in one place while he explained the treatment that he would require to be given the prisoners of war (R. 475). Accused's non-commissioned officers thought that he was too lenient towards the prisoners of war. They likewise thought that he should keep the prisoners of war "more on their toes" (R. 533). The only prisoners of war who were slapped were those who had violated the camp rules or the army regulations (R. 535). There was no protest ever made to accused about a guard by the name of Ito-san (R. 536). Accused had no power to discharge company guards. Whenever one of these guards did not comply with his orders, he could only give them a verbal reprimand. He could only request the company to discharge such guards but did not have the final "say" (R. 573). Accused was concerned with the recreation of the prisoners of war. He requested such equipment as baseballs, ping-pong balls, volley balls, musical instruments and a recording player from the company. Such requests were all fulfilled by the company. He was greatly concerned about the health of the prisoners under his charge (R. 576). When accused addressed the employees of the company he stated that prisoners of war are protected by International Law. Whatever incident that might happen at the company that displeased the guards, they were not to take matters into their own hands (R. 589). Whenever a violation of the rules took place they were to report the violation to the camp (R. 590). The factory guards did not strike or kick American prisoners of war (R. 591). Accused instructed his subordinates that whatever happened prisoners of war should not be beaten. In the case of weak prisoners, they should not be forced to perform labor; they should be permitted to rest in order to get their health back. If a prisoner of war worked overtime he was to be given extra food (R. 596). Accused requested the company to supplement the regular ration with rice, wheat, vegetables, and fish, and this request was granted (R. 611). Colonel Murata did not recognize a branch camp commandant as the equivalent in grade to a company commandant, and did not give such commandant the authority or rank to punish subordinates (R. 618). When a prisoner was discovered to be suffering from malnutrition at Oeyama Camp, the food ration was increased (R. 627). Accused requested the main camp to transfer Sergeant Akamatsu on the grounds that he felt that he was not suited to the handling of prisoners of war (R. 360).

Testimony of Accused: When accused arrived at the camp he noticed that there were hardly any heating facilities. As for sleeping quarters they merely had a thin mat on a board (R. 640). As for the officers, they were "scattered all over" and sleeping in the quarters with the enlisted men. He requested the company to furnish one stove for each barracks and also to furnish coal and wood as a means of heating. His request was granted. He sent to the village office and requested that they sell him straw as a substitute for tatami, however, at that time, even straw was rationed, and it required a permit from the prefectural office to buy such. However, he was able to obtain it. This straw was used on top of the mats on which the prisoners slept (R. 641). He likewise put in a request to build a new hospital. It was finished in February 1943. Accused instructed the members of the company at various times not to force prisoners of war to work and to select men suited for their particular job. During his command at Tanagawa Camp, not one prisoner of war was seriously injured. The prisoner of war officers had no

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opportunity to ascertain whether or not the enlisted personnel were being abused because of the fact that their resting house was about one hundred meters from the work site of the prisoners (R. 653). During his period at Tanagawa, accused did not receive or see any American or Canadian cigarettes (R. 654). As concerning Specification 9-c, Major Orr came to accused's office and complained that Takagi was mistreating a prisoner of war. Accused immediately left his office and went to the place where the mistreatment was occurring. When he arrived Takagi was not hitting the prisoner but the prisoner's cheeks were red, so it was apparent that such mistreatment had been taking place. The victim was Second Lieutenant Smith. Takagi informed the accused that this officer, while in Osaka, borrowed money from a Main Camp employee and wanted to return the same. Takagi said he thought that no one would lend any money to a prisoner of war and that he was investigating. When accused heard this explanation he cautioned him not to hit any prisoner of war again. The accused at that time apologized to Major Orr because of the misconduct of Takagi (R. 657). Concerning Specification 4, the accused stated that Sergeant Stewart, who testified for the prosecution, might have been struck by Takagi; however, the incident referred to in Specification 4 is a "mistake". His testimony was that the incident occurred on April 15. On that day the hospital was already built and the treatment room was in the hospital; therefore, the place mentioned in the testimony was wrong (R. 658). Accused denied all allegations in the other sub-specifications under Specification 9. Accused received a report from his subordinates that one of the Japanese of the Fujiward group struck a prisoner of war at the work site. Immediately accused called the perpetrator by telephone to come to camp. When he arrived accused informed him that he would refuse to send prisoners to work if there was any further abuse of such prisoners. In one incident Sergeant Major Tanaka stole one sack of sugar belonging to the prisoners of war. A guard by the name of Fokada reported this to accused. Under investigation Tanaka confessed and accused forced him to bring back the sugar from his home. He then telephoned the Osaka Main Camp and told them about the incident. Tanaka was ordered to report to the Main Camp and the next day his duties at the Tanagawa Camp were terminated. Major Orr requested straw hats be supplied for the prisoners because of the hot summer sun. With great difficulty accused obtained these hats and one was issued to each prisoner of war. One day accused, while returning home from camp, met the prisoners of war and among them were several who were not wearing these hats. Upon returning to the camp, accused ordered the offenders to remain behind and because he was angry because they were not wearing the hats after he had such great difficulty in obtaining them, he slapped four or five of them. However, he denied striking as many as twenty prisoners of war (R. 659). Concerning Specification 3, accused denied forcing prisoners of war to run for long distances. On one occasion when the weather was bad Sergeant Minemoto came to accused's office and asked permission that the prisoners of war be permitted to run to the beach. This permission was granted, but on the understanding that the running was to be voluntary and that it was at the desire of the prisoners themselves (R. 660). Concerning the written document about which Captain Fobes testified, accused stated that this was a written record concerning the statistics on prisoners of war at the camp. This was an important record and could not be found immediately. Upon investigation it was found in the prisoner of war officers' quarters. Takagi, Ichiba and five or six prisoners of war were discovered by accused talking in a loud voice upon discovery of the document. Accused ordered them to "forget" about the investigation since the record had been found. That is all accused knows about the incident (R. 661). Accused denied knowledge of the incident involving Captain Kuns (R. 664). Accused denied knowledge of any incident when a prisoner of war died at Tanagawa

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when he was sent out to work (R. 671). After the interpreter Takagi had beaten Lieutenant Smith, accused warned him that no such similar incidents were to happen again, and after that time he instructed Sergeant Ichiba and Sergeant Minemoto to watch in order that Takagi did not do anything wrong again (R. 675). As to the alleged death of Lieutenant Pflager, accused denied that this was caused by his running. It was only the prisoners of war who worked who participated in such running, and in their case it was done voluntarily (R. 676). Accused denied that there were any deaths caused by running (R. 677). No prisoner of war died at the work site. During the accused's command at Tanagawa, no individual Red Cross parcels were received or distributed (R. 679). Accused did not hear anything further about Takagi except the "Lieutenant Smith incident" (R. 681). While accused was in command at Tanagawa he was limited as to what orders he could give. He had no power or authority to punish subordinates. His work was regulated from Osaka Main Camp (R. 686). If there were any mistreatments of prisoners of war at Tanagawa Camp, they happened in accused's absence and, if such mistreatments occurred, his non-commissioned officers or civilian guards performed them in spite of his frequent cautioning (R. 688).

Oeyama Prisoner of War Camp: At Oeyama Prisoner of War Camp a prisoner of war disciplinary committee was set up under accused. This was done by permission of Colonel Murata of the Osaka Main Camp. Medical Officer Stening was head of the commission (R. 701). Concerning Specification 12, prisoner Lynch committed various offenses, such as stealing vegetables from the garden and taking wood from the floor of the Japanese barracks and burning it in the stove. There were many other offenses he committed. Only once did accused give him a warning and never did he resort to corporal punishment. Concerning Specification 14, accused denied that he recalled the name of Carpenter or what he looked like. He positively stated that no beating as alleged in the specification took place (R. 703). Accused denied that a prisoner of war sergeant beat other prisoners; however, he admitted that there were supervising non-commissioned officers appointed to enforce discipline of the other prisoners (R. 705). If a prisoner had been beaten at the work site and died subsequently a report would have been forwarded to accused. Such a report was never received (R. 707). Accused was surprised when he read affidavits of beatings at the Oeyama Camp. He was suspicious that Akamatsu was striking prisoners of war so he kept a close watch over him. It was because of this that he requested the Main Camp Commander to transfer Akamatsu from Oeyama (R. 708). Accused denied ever having seen any prisoners of war standing at attention in front of the guard house. He likewise denied ever seeing prisoners holding pails of water in their outstretched arms. He denied ever having seen "bamboo punishment" anywhere in his life (R. 711). He denied recalling any incident where prisoners were forced to stand at attention as a means of punishment (R. 712). He further denied any knowledge of the incident wherein prisoners Brady, York, O'Connor, and Rayle were punished as alleged under Specification 9-b (R. 715). Accused denied the truth of the testimony as alleged by Sergeant Rogers that he had a pair of Red Cross shoes, nor did he have a pair that looked like, or resembled, Red Cross shoes (R. 717). Only once did accused give a prize of Red Cross articles to a prisoner. This incident was when prisoner Willis saved a young Japanese girl's life (R. 720). Accused at no time received any complaint from Dr. Stening or Dr. Beadnell concerning Red Cross supplies (R. 721). He had no knowledge of Sergeants Harvey or Rogers receiving an extra bag of sugar. Sergeant Ichiba was in charge of such things and such an incident, had it happened, would not have been reported to accused (R. 722). He denied the allegation made in Exhibit 26, par. 9, p. 4, wherein it was alleged that certain men on the "black list" were forced to wear a green number (R. 727). Accused denied that Red

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Cross food and medicines were not given to prisoner of war incurables. Sergeant Harvey was in custody of the prisoner of war patients' cigarettes, and if an order was given to deny such patients cigarettes it would have been under his direction. He was of the belief that patients received cigarettes whenever it was "necessary" (R. 730). There was never an incident when a prisoner of war returned from the factory in an injured condition as a result of having been beaten (R. 731). Accused had no knowledge of an incident where a prisoner of war was punished for making a bracelet out of Japanese coins (R. 732). Accused, on several occasions in the evening, went back to camp wearing civilian clothes in order that he might check on the actions of his subordinates in regard to prisoners of war. Also, he went to the work site very often and watched at a distance with field glasses. He presumed that his subordinates were likewise keeping a watch on him and he never discovered any wrong-doing on their part (R. 734). The so-called "big four" committee which enforced discipline did not, by any agreement, receive extra Red Cross food or supplies while serving in such a capacity (R. 736). Accused stated that testimony to the effect that he had, by means of the prisoner of war bulletin board, announced that Red Cross supplies had been transported by Japanese ships and were, therefore, the property of the Japanese, was erroneous. The prisoners were merely reminded that in spite of the shortage of ships of the Japanese Government, that it had transported Red Cross food for the prisoners in order that they might more fully appreciate the benefit of such supplies (R. 741).

4. Opinion:

The record is legally sufficient to support the findings of the Commission except as has been hereinabove discussed. Every allegation of the charge and the specifications of which accused was found guilty was substantiated by ample and competent evidence. The Commission was constituted by proper authority and had jurisdiction of accused and of the offenses alleged.

The prosecution introduced evidence both by former prisoners who took the stand and by affidavits of former prisoners who had been interned in the camp and knew the facts of the matters in issue. From such, the guilt of accused was firmly established.

It is considered that there is a reasonable doubt that prisoner Bross, named in Specification 25oo, and prisoner Brass, named in Specification 25ss, are two different persons. Bross, as named in Exhibit 66, might well be the same person who is mentioned in the evidence under Specification 25ss. Furthermore, the mistreatment alleged under both sub-specifications could have been the mistreatment alleged in both incidents.

No evidence was found to support Specifications 25ff, 25ll, and 25mm.

The allegations under Specification 25m, except the beating, were not proved.

It is considered that when the Commission found accused not guilty of the words "cause" and "view" of Specification 7, it thereby found him guilty of offenses that are embraced in Specification 9i.

The complete record shows that accused had a fair trial and that he was represented by competent counsel. He took the stand and testified in his own behalf. A careful scrutiny of the entire record fails to reveal any error which injuriously affected the substantial

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rights of accused or any failure to accord him a fair trial in every respect. There is no evidence that accused was not sane at the time of the commission of the alleged acts and at the time of trial.

5. Recommendations:

There are no letters of clemency from any member of the Commission or from others.

The Commission sentenced accused to confinement at hard labor for fifteen (15) years. The sentence is legal.

It is recommended that the findings of the Commission as to Specifications 7,25ff, 2511, 25mm, and 25oo be disapproved. It is furthe recommended that only so much of Specification 25m as includes that the victim was beaten be approved.

By comparison with sentences imposed by other commissions on other accused war criminals the sentence is extremely lenient. It is considered that the sentence imposed for his contribution to the death of prisoner Latvala, for beatings, abuses and mistreatments of other prisoners of war is inadequate.

However, in order that accused might receive some punishment for the crimes of which he has been found guilty it is recommended that the sentence be approved.

Accused was confined 26 November 1945, went to trial 3 February 1947 and was sentenced 19 March 1947. Due to the length of time accused has spent in confinement prior to the date of sentence it is recommended that twelve and one-half (12½) months of the confinement at hard labor imposed be remitted. Sugamo Prison, Tokyo, Honshu, Japan, is the appropriate place of confinement.

6. Action:

A form of action designed to carry these recommendations into effect is attached hereto.

PAUL E. SPURLOCK
Reviewer
Judge Advocate Section

I concur in general. Such a low sentence as was returned under the facts in evidence bespeaks a serious miscarriage of justice. Nevertheless, pre-trial confinement is in no way to be considered as confinement served in expiation for offenses of which an accused is later convicted. Therefore a reviewing authority should consider such restraint entirely separately from that adjudged by a commission. The blackest rogue is entitled to an early trial under the enlightened rules of civilized nations. When trials are postponed, as this one was, because of the great number of those awaiting justice, fair allowances should be made for undue pre-trial confinement regardless of the inadequacy of a sentence. This is all the more true since commissions are instructed that pre-trial confinement is not to be considered in adjudging sentences.

ALLAN R. BROWNE
Lt Colonel JAGD
Army Judge Advocate

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(p 26, HAZAMA, Case #143)

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